

**ASSIGNMENT, CONSENT AND AMENDMENT OF
PUBLIC RIGHT-OF-WAY ENCROACHMENT LICENSE AGREEMENT**

THIS ASSIGNMENT, CONSENT AND AMENDMENT OF PUBLIC RIGHT-OF-WAY ENCROACHMENT LICENSE AGREEMENT (this “**Assignment**”) is made and entered into by and between the CITY OF BENBROOK, a home rule municipal corporation of Tarrant County, Texas (“**City**”), acting by and through its City Manager or duly designated representative, and Shipley Real Property and Investments LTD (“**Assignor**”), acting by and through its duly authorized agent, and The 2013 Della H Williams Irrevocable Trust (“**Assignee**”), acting by and through its duly authorized agent. Hereafter, City, Assignor, and Assignee may be referred to individually as a “**Party**” or collectively as the “**Parties**.”

WITNESSETH:

WHEREAS, Assignor transferred to Assignee title to certain real property located at 500 Winscott Road, Benbrook, Texas, 76126, legally described as Lot 1R, Block 3, Benbrook Industrial Park (“**Property**”), such that Assignee is the current fee simple owner of the Property; and

WHEREAS, the City previously entered into that certain Public Right-of-Way Encroachment License Agreement (the “**Original Agreement**”), as authorized by the Benbrook City Council during their duly advertised March 4, 2021 public hearing relating to **Agenda Item EDC-2021-02: Approve Economic Development and Performance Agreement between Benbrook Economic Development Corporation and Sam and Cynthia Shipley Family, LP** (also known as Shipley Real Property and Investments LTD), as kept on file with the Benbrook City Secretary, City Hall, 911 Winscott Road, Benbrook, Texas; and

WHEREAS, that Original Agreement dated December 16, 2021, filed on December 17, 2021 and recorded as Instrument No. D221368423 in the Real Property Records of Tarrant County, Texas is incorporated herein by reference as if set forth in full (subject to the amendment of certain exhibits, as set forth in this Assignment); and

WHEREAS, the Assignor desires to assign the Original Agreement to the Assignee pursuant to the terms of this Assignment.

AGREEMENT:

NOW, THEREFORE, for and in consideration of the above, the foregoing premises and the mutual covenants, terms and conditions herein contained, the Parties hereby agree as follows:

1. Assignor hereby assigns, transfers and conveys all rights and interests and delegates all duties and obligations under the Original Agreement to Assignee.
2. Assignee hereby accepts the assignment granted herein and assumes all Assignor’s rights, duties, and obligations under the Original Agreement.
3. Assignor has full right, power, and authority to enter into this Assignment, to make the representations set forth herein, and to carry out Assignor’s obligations hereunder. Assignee has the full right power, and authority to enter into this Assignment, to make the representations set forth herein, and to carry out Assignee’s obligations hereunder.

4. The effective date of this Assignment shall be the date of its execution by all Parties (the “**Effective Date**”). All rights, duties, and obligations under the Original Agreement arising, accruing, or relating to the period on or before the Effective Date are allocated to Assignor, and all rights, duties, and obligations arising, accruing, or relating to the period after the Effective Date shall be allocated to Assignee.
5. Except as otherwise expressly set forth in this Assignment, Assignor will be discharged from any and all further obligations under the Original Agreement that arise or accrue after the Effective Date of this Assignment.
6. Assignor represents, warrants, and covenants with City and Assignee that, as of the Effective Date, Assignor is not in default of any of its obligations contained in the Original Agreement.
7. In satisfaction of the terms and conditions of Section 17 of the Original Agreement, City hereby consents to this Assignment upon the terms and conditions set forth herein. Unless and until City has executed this Assignment, it is of no effect. The consent granted herein should not be construed as consent to any further assignments. The failure or delay of City in seeking to enforce any provision of the Original Agreement or this Assignment shall not be deemed a waiver of rights or remedies that City may have or a waiver of any subsequent breach of the terms and provisions therein or herein contained.
8. Any notice given by any Party to another Party must be in writing and shall be effective upon receipt when (i) sent by U.S. mail with proper postage, certified mail return receipt requested, or by a nationally recognized overnight delivery service, and (ii) addressed to the other Party at the address set out below or at such other address as the Party designates by property notice to the sending Party.

City

Attention: Assistant City Manager
Community Development Department
911 Winscott Road,
Benbrook, Texas 76126

Assignor:

Shipley Real Property and Investments LTD
500 Winscott Road
Benbrook, Texas 76126

Assignee:

The 2013 Della H Williams Irrevocable Trust
200 Greenleaf Street
Fort Worth, Texas 76107

9. Except as herein otherwise provided, this Assignment will be binding upon and inure to the benefit of the Parties and their respective successors and assigns.
10. Assignee shall cause this Assignment to be filed of record at Assignee’s expense in the Real Property Records for Tarrant County, Texas.

11. The Certificate of Insurance for Assignor attached as “Exhibit D” to the Original Agreement is hereby deleted in its entirety and replaced with the Certificate of Insurance for Assignee labeled as “Exhibit D, Revised”, attached to this Assignment and incorporated herein.
12. All terms and conditions of the Original Agreement not amended herein remain unaffected and in full force and effect, are binding on the Parties, and are hereby ratified by the Parties. Any capitalized terms not defined herein shall have the meaning assigned to them in the Original Agreement.

(SIGNATURES APPEAR ON THE FOLLOWING PAGES)

CITY OF BENBROOK

By: _____
Jim Hinderaker, Assistant City Manager

Date: _____

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, on this day personally appeared Jim Hinderaker, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he is the Assistant City Manager of the City of Benbrook, and that he is authorized to execute this instrument on behalf of said entity for the purpose and consideration herein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this _____ day of _____, 2022.

{SEAL}

Notary Public in and for the State of Texas

ASSIGNOR
Shipley Real Property and Investments, LTD

By: _____
Sam Shipley, Authorized Agent

Date: _____

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, on this day personally appeared Sam Shipley, Authorized Agent, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he is the Authorized Agent of Shipley Real Property and Investments LTD, and that he is authorized to execute this instrument on behalf of said entity for the purpose and consideration herein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this _____ day of _____, 2022.

{SEAL}

Notary Public in and for the State of Texas

ASSIGNEE
The 2013 Della H Williams Irrevocable Trust

By: _____
Della H Williams, Authorized Agent

Date: _____

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, on this day personally appeared Della H. Williams, Authorized Agent, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she is the Authorized Agent The 2013 Della H Williams Irrevocable Trust, and that she is authorized to execute this instrument on behalf of said entity for the purpose and consideration herein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this _____ day of _____, 2022.

{SEAL}

Notary Public in and for the State of Texas

EXHIBIT D, REVISED

ATTACH COPY OF CERTIFICATE OF LIABILITY INSURANCE